

§ 3015.171

7 CFR Ch. XXX (1–1–06 Edition)

percent of the proceeds or \$100, whichever is greater.) The amount received for trade-in or sale is considered the lesser of (i) the amount of compensation or (ii) the market value of the equipment at the time it was damaged, lost, or stolen.

(d) *Waivers.* The awarding agency may waive in whole or in part any provision of this section.

§ 3015.171 Unused supplies.

(a) If unused supplies exceeding \$1,000 in total aggregate market value are left over upon termination or expiration of the grant or subgrant for which they were acquired and the supplies are not needed for any project or program currently or previously funded by the Federal government, the grant shall be credited by an amount computed by multiplying the Federal share of the supplies times the current market value or, if the supplies are sold, the proceeds from sale. If the supplies are sold, 10 percent of the proceeds may be deducted and retained from the credit, for selling and handling expenses.

(b) For possible exemptions from this section, see § 3015.164.

§ 3015.172 Federal share of real property, equipment, and supplies.

This subpart contains principles necessary to determine the Federal (or non-Federal) share of real property, equipment or supplies.

(a) *General.* (1) Except as explained in the following paragraphs of this section, the Federal share of the property shall be the same percentage as the Federal share of the acquiring party's total cost under the grant during the grant or subgrant year (or other funding period) to which the acquisition cost of the property was charged. For this purpose, "costs under the grant" means allowable costs which are either supported by the grant or counted toward satisfying a cost-sharing or matching requirement of the grant.

(2) If the property is acquired by a subrecipient, the Federal share of the subrecipient's costs under the grant and hence of the property shall be calculated by multiplying the Federal share of the recipient's costs by the latter's share of the subrecipient's costs. (For example, if the Federal

share of the recipient's costs is 50 percent and the subgrant bears only 50 percent of a subrecipient's costs, then the Federal share of that subrecipient's costs (and of the property acquired by that subrecipient) is 25 percent.)

(3) The provisions of some grant awards set different maximum percentages of Federal financial participation for different categories of costs. In these cases, for the purposes of this section, the costs in each category are considered as costs under a separate grant. If two categories have the same maximum percentage of Federal participation and costs in one category are permitted to count toward satisfying a cost-sharing or matching requirement of the other, they are a single category for the purposes of this rule. Also, all categories with a 100 percent rate are considered a single category for the purposes of this rule.

(b) *Property acquired only partly under a grant.* (1) Sometimes only a part of the acquisition cost of an item of property is supported as a direct cost by the grant or counted as a direct cost towards a cost-sharing or matching requirement. Occasionally, the amount paid for the property is only a part of its value. The remainder is donated as an in-kind contribution by the party that provided the property.

(2) To determine the Federal share of such property, first calculate the Federal share of the acquiring party's total costs under the grant as explained in paragraph (a) of this section. Next multiply that share by the percentage of the property's acquisition cost (or its market value, if the item was partly donated) which was supported as a direct cost by the grant or counted as a direct cost towards a cost-sharing or matching requirement.

(c) *Replacement equipment.* To calculate the Federal share of replacement equipment the following procedures shall be followed:

(1) *Step 1:* Determine the Federal share (percentage) of the equipment replaced.

(2) *Step 2:* Determine the percentage of the replacement equipment's costs that was covered by the amount received for trade-in or the sale proceeds from the equipment replaced.

(3) *Step 3*: Multiply the step 1 percentage by the step 2 percentage.

(4) *Step 4*: If an additional outlay for the replacement equipment was charged as a direct cost either to USDA grant funds or to required cost-sharing or matching funds, calculate the Federal share attributable to that additional outlay as explained in paragraph (b)(2) of this section. Add that additional percentage to the step 3 percentage.

§ 3015.173 Using or returning the Federal share.

(a) This section applies when, under § 3015.163, 3015.168 or 3015.170, the Federal government has a right to an amount of money upon disposal or loss, theft, or damage of property.

(b) If the recipient's project or program for which the property was acquired is still receiving grant support from the same Federal program, the awarding agency may authorize use of the net money due for allowable costs of that project or program.

(c) Otherwise, the net amount must be returned to the awarding agency by check or money order.

§ 3015.174 Subrecipient's share.

Where this subpart requires a sharing of the market value or sale proceeds of property acquired under a subgrant, the non-Federal share shall be proportionally divided between the recipient and the subrecipient. The subrecipient shall be entitled to the amount it would have received or retained if the award to it had been made directly by the Federal government. The remainder of the non-Federal share shall belong to the recipient.

§ 3015.175 Intangible personal property.

(a) *Inventions and Patents*. (1) If the recipient is a small business or nonprofit organization (including universities and other institutions of higher education), the allocation of rights in inventions produced under a grant or cooperative agreement shall be determined in accordance with the provisions of sections 200 through 206 of Pub. L. 96-517 (35 U.S.C. 200-206) and OMB Circular A-124.

(2) For all other recipients, the allocation of rights in inventions shall be determined in accordance with the "Government Patent Policy" (President's Memorandum for Heads of Executive Departments and Agencies, February 18, 1983) and OMB Circular A-124.

(b) *Copyrights*—(1) *Applicability*. This section applies to the copyright in any original work of authorship prepared with grant support. Additionally, if ownership of a copyright or of any of the exclusive rights comprising a copyright are purchased with grant support, this section applies to the purchased copyright or rights.

(2) *Basic rules*. (i) USDA reserves a royalty-free, nonexclusive, and irrevocable license to exercise, and to authorize others to exercise, the rights for Federal Government purposes. Subject to this license, the owner is free to exercise, preserve, or transfer all its rights. The recipient shall ensure that no agreement is entered into for transferring the rights which would conflict with the nonexclusive license of USDA.

(ii) One way that USDA may exercise its nonexclusive license is to authorize exercise of the rights in another project or activity that receives or has received grant support from the Federal Government.

(iii) A recipient awarding a subgrant is allowed to impose subgrant terms reserving a nonexclusive license for itself, similar to the one reserved by this section for USDA, with respect to any copyright or rights subject to this section that arise under the subgrant.

[48 FR 35875, Aug. 8, 1983]

Subpart S—Procurement

§ 3015.180 Scope and applicability.

(a) This subpart contains information for complying with Attachment 0, "Procurement Standards", of OMB Circulars A-102 and A-110. Circular A-102 covers grant and cooperative agreement programs with State and local governments and Indian Tribal governments. Circular A-110 covers grant and cooperative agreement programs with institutions of higher education, hospitals, and other nonprofit organizations. Copies of both Circulars may be obtained from O&F.